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EXAMINER

DANIEL JR, WILLIE J

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 02/02/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/848,347

Applicant(s)

JEONG ET AL.

Examiner

Willie J. Daniel, Jr.

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Drawings

1. The drawings are objected to because of **Form PTO-948** section 6. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: **Fig. 1** does not show "**105**" as stated on pg. 6, line 8. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:
 - a. Fig. 1 - "**0141**"
 - b. Fig. 6B - "**608**"
 - c. Fig. 7A - "**721**"
 - d. Fig. 7B - "**777**".

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

In addition to the errors listed, Examiner recommends proofreading for the other inconsistencies and errors within specification, drawings, and claims.

5. The disclosure is objected to because of the following informalities: Data center is referred to as "105" on pg. 6, line 8 and "120" on pg. 7, line 20; Examiner interprets pg. 8, line 25 "22" to be "221".

Appropriate correction is required.

Claim Objections

6. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 16 step "b6" has been renumbered to step "c6" in which causes Claim 17 step "c6" to be renumbered to step "c7".

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7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Regarding **Claim 9**, states "program identity (PID)" on pg. 30, line 14 in which the specification states "personal identity (PID)" on pg. 21, line 13.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding **Claim 9**, the claim depends on **Claim 10**, which is a dependent of the claim. Examiner interprets the claim to be dependent on the preceding claim 8.

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding **Claim 22**, the claim depends on **Claim 23**, which is a dependent of the claim. Examiner interprets the claim to be dependent on the preceding claim 21.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 12-19, 24, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by **Fette et al.** (hereinafter "**Fette**" will be used) (**US 6,052,600**).

Regarding **Claim 1**, Fette discloses a method for distributing application software applied to an application software distribution system (114) (see col. 2, lines 34-58; col. 3, lines 22-42; Figs. 1, 3, and 4), comprising the steps of:

- a) initializing to distribute application software files to a mobile station (200) (see col. 4, lines 30-34), where the mobile is being prepared for a software upgrade;
- b) receiving an application software transmission/reception requiring message from the mobile station (200) (see col. 4, lines 26-29);
- c) if the application software transmission requiring message is received, transmitting the application software file to the mobile station (200) (see col. 4, lines 25-36; Fig. 3); and
- d) if the application software reception requiring message is received, receiving the application software file from the mobile station (200) (see col. 9, lines 20-28; Fig. 4), where the mobile user transmits information related to applications contained on the mobile station which will update the database of the server.

Regarding **Claim 2**, Fette discloses the method as recited in claim 1, before the step a), further comprising the step of: e) generating a thread in the application software distribution system (see col. 4, lines 25-35; Fig. 3), where the system inherently develops the instructions (thread) to carry out the software upgrade or configuration.

Regarding **Claim 3**, Fette discloses the method as recited in claim 2, wherein the step c) includes the steps of:

c1) constructing a transmission plan in the application software distribution system (114) and transferring a transmission plan message to the mobile station (see col. 4, lines 34-36; Figs. 3 and 4), where the system constructs a message (plan) that is transferred to the mobile station for delivering a software file would be inherent;

C2) opening an application software file to be transmitted (see col. 4, lines 34-35); and

C3) transmitting the application software file to the mobile station (200) (see col. 4, lines 34-35).

Regarding **Claim 4**, Fette discloses the method as recited in claim 3, before the step c1) further including the step of:

c4) transmitting a response message to the application software transmission requiring message (see col. 4, lines 25-36; Fig. 3), where the message is sent containing the software.

Regarding **Claim 5**, Fette discloses the method as recited in claim 2, wherein the step d) includes the steps of:

d1) constructing a reception plan in response to an application software reception requiring message (see col. 4, lines 25-36; Fig. 3), where the constructing plan would be inherent;

d2) receiving application software file packets (see col. 4, lines 25-36; col. 8, lines 16-21; Fig. 3);

d3) determining whether there is an error in the application software file packets (see col. 8, lines 22-31; col. 8, line 49 - col. 9, line 13; Figs. 3 and 4); and

d4) if there is no error in the application software file packet, storing the application software file packets (see col. 5, lines 41-48; col. 7, lines 6-12; col. 8, lines 22-31; col. 8, line 49 - col. 9, line 13; Figs. 3 and 4).

Regarding **Claim 6**, Fette discloses the method as recited in claim 3, before the step b), further including the step of:

f) confirming that the mobile station (200) is a service subscriber (see col. 8, lines 3-14; Figs. 3 and 4), where the license is checked to make sure the mobile station is a subscriber.

Regarding **Claim 7**, Fette discloses the method as recited in claim 4, further including the steps of:

c5) if all of the application software files are transmitted, transmitting an application software transmission completion packet to the mobile station (see col. 9, lines 5-14; col. 9, line 66 - col. 10, line 7; Fig. 4);

c6) receiving an application software transmission requirement releasing message from the mobile station (200) (see col. 9, line 5-14), where a releasing message sent by the mobile would be inherent for successful completion of application transmission; and

c7) terminating the thread (see col. 9, lines 5-14; col. 9, line 66 - col. 10, line 7; Fig. 4).

Regarding **Claim 8**, Fette discloses the method as recited in claim 7, wherein the application software distribution system (114) stores charging information to make a user of

the mobile station (200) chargeable for an execution of said application software program (see col. 3, line 58 - col. 4, line 2; col. 4, lines 37-39).

Regarding **Claim 12**, Fette discloses a method for distributing application software file applied to a mobile station (200) (see col. 2, lines 34-58; col. 3, lines 22-42; Figs. 1, 3, and 4), comprising the steps of:

- a) performing an initialization in the mobile station (200) (see col. 4, lines 30-34), where the mobile is being prepared for a software upgrade;
- b) transmitting an application software transmission/reception requiring message to an application software distribution system (114) (see col. 4, lines 26-33);
- c) if the application software transmission requiring message is transmitted, receiving an application software file from the application software distribution system (114) (see col. 4, lines 25-36; Fig. 3); and
- d) if the application software reception requiring message is transmitted, transmitting the application software file (see col. 4, lines 25-36; Figs. 3 and 4), where the software file is transmitted to the mobile station.

Regarding **Claim 13**, Fette discloses the method as recited in claim 12, after the step c), further comprising the steps of:

- e) installing the application software file (see col. 4, line 36; Fig. 3).

Regarding **Claim 14**, Fette discloses the method as recited in claim 13, before the step a), further comprising the steps of:

f) selecting an application software program necessary for the mobile station, if there is no necessary application software file (see col. 4, lines 26-36), where the SDC queries with vendors for updates when the SDC doesn't have the latest software version or updates.

Regarding **Claim 15**, Fette discloses the method as recited in claim 14, after the step b), further including the step of:

g) receiving a response to the application software reception requirement message (see col. 4, lines 34-36; Figs. 3 and 4).

Regarding **Claim 16**, Fette discloses the method as recited in claim 15, wherein the step c) includes the steps of:

c1) receiving a transmission plan message from an application software distribution system (see col. 4, lines 25-36; Fig. 3), where receiving a plan message from the software distribution system would be inherent for software upgrade;

c2) constructing a reception plan (see col. 4, lines 26-36; Fig. 3), where the plan would be inherent for receiving of software;

c3) receiving an application software transmission start packet from the application software distribution system (see col. 4, lines 26-36; Fig. 3), where the start packet would be inherent in the transmitting of the software to the mobile station;

c4) standing by to receive an application software file (see col. 4, lines 26-36; Fig. 3), where the mobile station stands by to receive software;

c5) receiving the application software file from the application software distribution system; and

c6) storing the application software file.

Regarding **Claim 17**, Fette discloses the method as recited in claim 16, after the step c5), further including the step of:

c7) performing an error checking of the application software file (see col. 8, lines 16-32; col. 9, lines 5-13; Fig. 3 and 4).

Regarding **Claim 18**, Fette discloses the method as recited in claim 15, wherein the step e) includes the steps of:

e1) receiving an application software transmission completion packet from the application software distribution system (114) (see col. 9, lines 5-14; col. 9, line 66 - col. 10, line 7; Fig. 4);

e2) determining whether there is an error in the application software file (see col. 8, lines 22-31; col. 8, line 49 - col. 9, line 13; Figs. 3 and 4); and

e3) if there is no error in the application software file, installing the application software file (see col. 5, lines 41-48; col. 7, lines 6-12; col. 8, lines 22-31; col. 8, line 49 - col. 9, line 13; Figs. 3 and 4).

Regarding **Claim 19**, Fette discloses the method as recited in claim 18, further including the step of performing a data backup for information concerned with the user of the mobile station (200) through a data backup equipment, when the mobile station (200) is not used for a constant period by automatically checking a using period of the user of the mobile station (see col. 9, lines 24-48; Figs. 1 and 4), where the server and record computer keeps track of data such as programs, records, license grants, and billing information associated with the user.

Regarding **Claim 24**, Fette discloses a computer readable record medium storing instructions for executing a method for distributing application software applied to an application software distribution system (114) (see col. 2, lines 34-58; col. 3, lines 22-42; Figs. 1, 3, and 4), the method comprising the steps of:

- a) initializing to distribute application software files to a mobile station (200) (see col. 4, lines 30-34);
- b) receiving an application software transmission/reception requiring message from the mobile station (200) (see col. 4, lines 26-29);
- c) if the application software transmission requiring message is received, transmitting the application software file to the mobile station (200) (see col. 4, lines 25-36; Fig. 3); and
- d) if the application software reception requiring message is received, receiving the application software file from the mobile station (200) (see col. 9, lines 20-28; Fig. 4), where the mobile user transmits information related to applications contained on the mobile station which will update the database of the server.

Regarding **Claim 25**, Fette discloses a computer readable record medium storing instructions for executing a method for distributing application software applied to a mobile station (200) (see col. 2, lines 34-58; col. 3, lines 22-42; Figs. 1, 3, and 4), the method comprising the steps of:

- a) performing an initialization in the mobile station (200) (see col. 4, lines 30-34), where the mobile is being prepared for a software upgrade;
- b) transmitting an application software transmission/reception requiring message to an application software distribution system (114) (see col. 4, lines 26-33);

c) if the application software transmission requiring message is transmitted, receiving an application software file from the application software distribution system (114) (see col. 4, lines 25-36; Fig. 3); and

d) if the application software reception requiring message is transmitted, transmitting the application software file (see col. 4, lines 25-36; Figs. 3 and 4), where the software file is transmitted to the mobile station.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-11 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fette et al.** (hereinafter "**Fette**" will be used) (**US 6,052,600**) in view of **Criss et al.** (hereinafter "**Criss**" will be used) (**US 6,643,506**).

Regarding **Claim 9**, Fette teaches of the method wherein the step a) includes the steps of:

a1) generating a program identity (PID) allocated to transmit the application software transmission plan message (see col. 4, lines 25-36), where a program identity would be inherent. Fette fails to disclose having an internet protocol (IP) address allocated to transmit the application. However, the examiner maintains that an internet protocol (IP) address allocated to transmit the application was well known in the art, as taught by Criss.

In the same field of endeavor, Criss teaches having an internet protocol (IP) address allocated to transmit the application (see col. 11, line 54 - col. 12, line 19; Fig. 4 and 7a-b).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette and Criss wherein the step a) includes the steps of: a1) generating a program identity (PID) allocated to transmit the application software transmission plan message; and a2) storing the PID and an internet protocol (IP) address allocated to transmit the application software are stored.

The advantage of combining the teachings of Fette and Criss is to have a system and method in which software upgrades are provided wirelessly to mobile devices which does not require significant down time and service costs.

Regarding **Claim 10**, the combination of Fette and Criss discloses everything claimed, as applied above (see claim 9), in addition Fette further teaches the step of performing a data backup for information concerned with the user of the mobile station (200) through a data backup equipment, when the mobile station is not used for a constant period by automatically checking a using period of the user of the mobile station (200) (see col. 9, lines 24-48; Figs. 1 and 4), where the server and record computer keeps track of data such as programs, records, license grants, and billing information associated with the user.

Regarding **Claim 11**, the combination of Fette and Criss discloses everything claimed, as applied above (see claim 10), in addition Fette further teaches wherein the application software distribution system (114) differentially provides a storing space in accordance with an age or an occupation of the user of the mobile station (200) (see col. 4, lines 4-16; col. 9, lines 39-49; Figs. 1 and 4), where the record keeping is based on the user's occupation.

Regarding **Claim 20**, Fette teaches the method as recited in claim 10, wherein the step a) includes the steps of:

a1) generating a program identity (PID) allocated to transmit the application software transmission plan message (see col. 4, lines 25-36), where a program identity would be inherent. Fette fails to disclose having an internet protocol (IP) address allocated to transmit

the application. However, the examiner maintains that an internet protocol (IP) address allocated to transmit the application was well known in the art, as taught by Criss.

Criss further teaches having an internet protocol (IP) address allocated to transmit the application (see col. 11, line 54 - col. 12, line 19; Fig. 4 and 7a-b).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette and Criss wherein the step a) includes the steps of: a1) generating a program identity (PID) allocated to transmit the application software transmission plan message; and a2) storing the PID and an internet protocol (IP) address allocated to transmit the application software are stored.

The advantage of combining the teachings of Fette and Criss is to have a system and method in which software upgrades are provided wirelessly to mobile devices which does not require significant down time and service costs.

Regarding **Claim 21**, the combination of Fette and Criss discloses everything claimed, as applied above (see claim 20), in addition Fette further teaches wherein the application software distribution system (114) differentially provides a storing space in accordance with an age or an occupation of the user of the mobile station (200) (see col. 4, lines 4-16; col. 9, lines 39-49; Figs. 1 and 4), where the record keeping is based on the user's occupation.

Regarding **Claim 22**, the combination of Fette and Criss discloses everything claimed, as applied above (see claim 21), in addition Criss further teaches wherein the mobile station deletes the application software or transmits the application software to the storing space of the application software distribution system, if the storing space of the mobile

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station is shortage (see col. 14, lines 23-54), where the mobile station deletes the old version to save storing space in the memory.

Regarding **Claim 23**, the combination of Fette and Criss discloses everything claimed, as applied above (see claim 22), in addition Criss further teaches the method further including the step of automatically connecting to a server designated by a uniform resource locator (URL) of a specified site, when the application software file distributed from the application software distribution system is executed, the URL being set inside the application software (see col. 19, lines 52 - col. 20, line 16; Figs. 7a-e and 14a-d).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (703) 305-8636. The examiner can normally be reached on 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-3180.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-5424.

WJD,JR/wjd,jr
16 January 2004

Marsha D Banks-Harold
MARSHA D. BANKS-HAROLD
SUPERVISORY PATENT EXAMINER
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